



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 488

IN THE MATTER OF PETER B. MORIN

DISPOSITION AGREEMENT

This Disposition Agreement ("Agreement") is entered into between the State Ethics Commission (Commission) and Peter B. Morin ("Morin") pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On August 9, 1993, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into allegations that Morin had violated the conflict of interest law, G.L. c. 268A. The Commission has concluded its inquiry and, on January 25, 1994, voted to find reasonable cause to believe that Morin violated G.L. c. 268A, §3.

The Commission and Morin now agree to the following facts and conclusions of law:

1. Morin served in the state legislature from January 1985 to January 1991. During that time, Morin served on various committees, including the Committee on Commerce and Labor and the Committee on Banks and Banking.
2. Morin, as a member of legislative committees, participated in hearings on bills of interest to the insurance industry. Such participation included voting on whether such bills should be reported out of committee. Morin also voted on bills of interest to the insurance industry when they reached the House floor.^{1/}
3. During the period relevant here, F. William Sawyer ("Sawyer") was the senior John Hancock Mutual Life Insurance Company, Inc. ("Hancock") lobbyist responsible for Massachusetts legislation. At all relevant times, Sawyer was a registered legislative agent (for Hancock) in Massachusetts. At all relevant times, Morin knew that Sawyer was a Massachusetts registered lobbyist for Hancock. Hancock, a Massachusetts corporation, is the nation's sixth largest life insurer doing business in all 50 states. Hancock offers an array of life, health and investment products. As a Massachusetts domiciled life insurer, Hancock's activities are more comprehensively regulated by Massachusetts than by any other state.
4. Lobbyists are employed to promote, oppose or influence legislation.
5. One way in which some lobbyists further their legislative goals is to develop or maintain goodwill and personal relationships with legislators to ensure effective access to them. Some lobbyists entertain legislators through meals, drinks, golf and sporting events in order to develop the desired goodwill and personal relationships.
6. Annually from 1988 to 1991, Sawyer took a group of legislators and their guests out for dinner and drinks at a Cape Cod restaurant. In 1988, the dinner was held at The Regatta Restaurant in Cotuit. In 1989 through 1991, the annual dinner was held at the Cranberry Moose Restaurant in Yarmouthport. The cost of these dinners was between \$736.10 and \$1,131.89 annually. Morin and his wife attended two of these dinners while he was a legislator, on July 1, 1988 and July 2, 1990. The Morins' pro rata share of the cost of the 1988 and 1990 dinners and drinks was \$81.79 and \$150.91 respectively.
7. Prior to and in conjunction with the July dinners Morin attended, Morin hosted Sawyer and two legislators for golf at the Hyannisport Club, a private seaside golf club on Cape Cod where Morin was a member. In connection with

these golf outings, Morin initially incurred the member's charge for guest greens fees, golf cart fees, range ball fees and snack, refreshment and/or lunch charges for Sawyer and the other legislators. Subsequently, Sawyer reimbursed Morin for the cost of all such fees and charges with checks drawn on Sawyer's and his wife's joint checking account.^{2/} The cost charged to Morin for guest greens fees at the Hyannisport Club was \$25 per golfer.^{3/}

8. Section 3(b) of G.L. c. 268A prohibits a state employee from directly or indirectly receiving anything of substantial value for or because of any official act or act within his official responsibility performed or to be performed by him.

9. Massachusetts legislators are state employees.

10. Anything worth \$50 or more is of substantial value for §3 purposes.^{4/}

11. By accepting a total of \$232.70 in drinks and meals from Sawyer, while Morin was in a position to take official action which could benefit that lobbyist or his employer, Morin accepted items of substantial value for or because of official acts or acts within his official responsibility performed or to be performed by him. In doing so, Morin violated §3(b).^{5/}

12. The Commission is aware of no evidence that the gratuities or gifts referenced above were provided to Morin with the intent to influence any specific act by him as a legislator or any particular act within his official responsibility. The Commission is also aware of no evidence that Morin took any official action concerning any proposed legislation which would affect the registered Massachusetts lobbyist in return for the gratuities or gifts. However, even though the gratuities were only intended to foster official goodwill and access, they were still impermissible.^{6/}

13. Morin cooperated with the Commission's investigation.

In view of the foregoing violations of G.L. c. 268A by Morin, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Morin:

(1) that Morin pay to the Commission the sum of seven hundred dollars (\$700.00) for violating G.L. c. 268A, §3(b);^{7/} and

(2) that Morin waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this agreement and in any related administrative or judicial proceedings to which the Commission is or may be a party.

Date: May 12, 1994

^{1/} According to Morin, he participated in hearings and votes on legislation of interest to the insurance industry only occasionally during his service in the legislature.

^{2/} Hancock subsequently reimbursed Sawyer for these expenditures.

^{3/} According to Morin, the dinners he and his wife were treated to by Sawyer were in part in return for the access he provided to the Hyannisport Club for Sawyer and his guests. The evidence does not, however, establish that Morin's provision of such access was the predominant motivating factor for Sawyer's inclusion of Morin in the annual July Fourth weekend dinners rather than that Morin, as state representative, was in a position to take official action on legislative matters of interest to Hancock and was thus someone whose goodwill Sawyer sought to develop and maintain.

^{4/} See *Commonwealth v. Famigletti*, 4 Mass. App. Ct. 584, 587 (1976); *EC-COI-93-14*.

^{5/} For §3 purposes, it is unnecessary to prove that the gratuities given were generated by some specific identifiable act performed or to be performed. As the Commission explained in *Advisory No. 8*, issued May 14, 1985, prohibiting private parties from giving free tickets worth \$50 or more to public employees who regulate them,

Even in the absence of any specifically identifiable matter that was, is or soon will be pending before the official, §3 may apply. Thus, where there is no prior social or business relationship between the giver and the recipient, and the recipient is a public official who is in a position to use [his] authority in a manner which could affect the giver, an inference can be drawn that the giver was seeking

the goodwill of the official because of a perception by the giver that the public official's influence could benefit the giver. In such a case, the gratuity is given for his yet unidentifiable "acts to be performed."

Specifically, §3 applies to generalized goodwill-engendering entertainment of legislators by private parties, even where no specific legislation is discussed. *In re Flaherty*, 1991 SEC 498, issued December 10, 1990 (majority leader violates §3 by accepting six Celtics tickets from billboard company). *In re Massachusetts Candy and Tobacco Distributors, Inc.*, 1992 SEC 609 (company representing distributors violates §3 by providing a free day's outing [a barbecue lunch, golf or tennis, a cocktail hour and a clam bake dinner], worth over \$100 per person, to over 50 legislators, their staffers and family members, with the intent of enhancing the distributors' image with the legislature and where the legislators were in a position to benefit the distributors).

Section 3 applies to meals and golf, including those occasions motivated by business reasons, for example, the so-called "business lunch". *In re U.S. Trust*, 1988 SEC 356. Finally, §3 applies to entertainment gratuities of \$50 or more even in connection with educational conferences. *In re Stone & Webster*, 1991 SEC 522, and *In re State Street Bank*, 1992 SEC 582.

On the present facts, §3 applies to Sawyer entertaining Morin where the intent was generally to create goodwill and the opportunity for access, even though specific legislation was not discussed. The fact that part of the motive for the entertainment may have been legitimate — i.e., reciprocation for Morin having provided Sawyer's golf group with access to the Hyannisport Club, according to Morin — is not a defense to §3. To the extent that a private relationship is a motivating factor for a gratuity it must be the motive for the gratuity or §3 is violated. *In re Flaherty*, 1990 SEC 498, 500. That was not the case here.

^{6/} As discussed above in footnote 5, §3 of G.L. c. 268A is violated even where there is no evidence of an understanding that the gratuity is being given in exchange for a specific act performed or to be performed. Indeed, any such *quid pro quo* understanding would raise extremely serious concerns under the bribery section of the conflict of interest law, G.L. c. 268A, §2. Section 2 is not applicable in this case, however, as there is no evidence of any such *quid pro quo* between the lobbyist and Morin.

^{7/} This amount is approximately three times the value of the \$232.70 in prohibited gratuities received by Morin in violation of §3. It represents both a disgorgement of the value of the gratuities and a civil sanction.